

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF TEXAS
DALLAS DIVISION

UNITED STATES OF AMERICA,) **Case No. 3:12-CR-0392-O**
) **Magistrate No. 3:12-MJ-491-BH**
Plaintiff,)
)
V.) Dallas, Texas
) November 6, 2012
) 2:00 p.m.
TONY HERNANDEZ (1); JOHNNY)
ANGEL GAMEZ (2); SERGIO)
PICASSO-NIETO (3); MIGUEL) INITIAL APPEARANCES
QUINTERO (4); AGNE VASQUEZ)
(5); ROBERTO VASQUEZ (8),)
AND MARIA REYNA VASQUEZ (9),)
)
Defendants.)

TRANSCRIPT OF PROCEEDINGS
BEFORE THE HONORABLE IRMA CARRILLO RAMIREZ,
UNITED STATES MAGISTRATE JUDGE.

APPEARANCES:

For the Plaintiff: John Kull
U.S. ATTORNEY'S OFFICE
1100 Commerce Street, Suite 300
Dallas, TX 75242-1699
(214) 659-8600

For Defendant Gamez: Edwin J. Tomko
CURRAN TOMKO TARSKI, LLP
2001 Bryan Street, Suite 2000
Dallas, TX 75201
(214) 270-1400

For Defendant Picasso-Nieto: Robert J. Herrington
LAW OFFICE OF ROBERT J. HERRINGTON
PO Box 262234
Plano, TX 75026-2234
214/557-0577

For Defendant Quintero: Sharita Blacknall
THE LAW OFFICES OF SHARITA
BLACKNALL, P.C.
5001 Spring Valley Road, Suite 400
East
Dallas, TX 75244
(214) 678-9111

1 APPEARANCES, cont'd.:

2 For Defendant Agne James G. Jamison
3 Vasquez: LAW OFFICE OF JAMES G. JAMISON
4 529 W 12th Street
5 Dallas, TX 75208
6 (214) 941-5700

5 For Defendant Roberto Terence J. Hart
6 Vasquez: BRACEWELL & GIULIANI, LLP
7 1445 Ross Avenue, Suite 3800
8 Dallas, TX 75202
9 (214) 468-3800

8 For Defendant Maria Laura S. Harper
9 Vasquez: FEDERAL PUBLIC DEFENDER'S OFFICE
10 525 Griffin Street, Suite 629
11 Dallas, TX 75202
12 (214) 767-2746

11 Spanish-English Alma Adriano
12 Interpreter:

12 Recorded by: Marie Ramos
13 UNITED STATES DISTRICT COURT
14 1100 Commerce Street, Room 1452
15 Dallas, TX 75242-1003
16 (214) 753-2167

15 Transcribed by: Kathy Rehling
16 311 Paradise Cove
17 Shady Shores, TX 76208
18 (940) 498-2402

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25 Proceedings recorded by digital sound recording;
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1 DALLAS, TEXAS - NOVEMBER 6, 2012 - 2:23 P.M.

2 THE COURT: All right. Are we ready to proceed with
3 the next matter? Ms. Adriano, have you had a chance to
4 interpret the complaint?

5 THE INTERPRETER: I have read up to Page 6, and I
6 believe it's an 18 -- 18-page document.

7 THE COURT: Okay.

8 THE INTERPRETER: Twenty.

9 THE COURT: So do we need to take a recess for you to
10 complete the --

11 THE INTERPRETER: If I need to read the whole thing,
12 yes.

13 THE COURT: Yes. Okay. And who needs the
14 interpreter?

15 THE INTERPRETER: Maria Vasquez and Agne Vasquez.
16 Sergio.

17 THE COURT: All right. And does Mr. Agne Vasquez need
18 an interpreter?

19 MR. JAMISON: No.

20 THE COURT: No? Okay. Ms. Adriano, can you interpret
21 while I proceed with the other --

22 THE INTERPRETER: Sure.

23 THE COURT: -- people? That won't disturb you?

24 THE INTERPRETER: Not the other people. I'll be
25 quiet, Your Honor.

1 THE COURT: Thank you. All right. Well, let's start
2 with -- let's have Agne Vasquez please stand. Tony Hernandez.
3 Johnny Angel Gamez. Miguel Quintero. Roberto Vasquez. All
4 right. I am going to advise you all of your constitutional
5 rights. You have the right to remain silent. You're not
6 required to make any statement about any charge against you.
7 If you have made a statement, you're not required to say any
8 more. If you start to make a statement, you can stop at any
9 time. Any statement made by you can later be used against you.

10 You have the right to the assistance of an attorney at all
11 stages of the proceedings. If you cannot afford an attorney,
12 one will be appointed for you.

13 Let's get started with Mr. Hernandez. Why don't -- the
14 rest of you may have a seat. I'll come back to your cases in
15 just a moment.

16 Mr. Hernandez, why don't you come up to the podium. Mr.
17 Hernandez, do you understand the constitutional rights that I
18 have just explained to you?

19 DEFENDANT HERNANDEZ: Yes.

20 THE COURT: All right. Did you get a copy of the
21 criminal complaint against you?

22 DEFENDANT HERNANDEZ: Yes.

23 THE COURT: Have you had a chance to read it?

24 DEFENDANT HERNANDEZ: I'm not done yet, but --

25 THE COURT: Okay.

1 DEFENDANT HERNANDEZ: -- I'm almost. About three more
2 pages.

3 THE COURT: Do you understand that you're being
4 charged in a drug conspiracy?

5 DEFENDANT HERNANDEZ: Yes.

6 THE COURT: Okay. Have you -- you have hired an
7 attorney to represent you in this case. Is that right? Or
8 your family has hired one for you?

9 DEFENDANT HERNANDEZ: Yes.

10 THE COURT: All right. So you don't need the Court to
11 appoint an attorney for you?

12 DEFENDANT HERNANDEZ: No.

13 THE COURT: Okay. Now, it's my understanding that
14 your attorney has contacted my office and has advised that he
15 cannot be here today but that he can be here the rest of the
16 week. So I am going to set certain hearings that we have --
17 that we'll have for you --

18 DEFENDANT HERNANDEZ: Okay.

19 THE COURT: -- for tomorrow, but I just needed to be
20 sure to confirm with you on the record that you did not need
21 the Court to appoint an attorney for you. Is that right?

22 DEFENDANT HERNANDEZ: Yes.

23 THE COURT: Okay. Now, because you are here on a
24 criminal complaint instead of an indictment, you have the right
25 to what we call a preliminary or a probable cause hearing.

1 That's a hearing where the Government will have to show that
2 there's probable cause to believe that you've committed the
3 crime that's charged against you in the indictment. Now,
4 because your attorney could not be here today, I'm going to go
5 ahead and set this matter for a preliminary hearing for
6 tomorrow. Do you understand your right to a preliminary
7 hearing?

8 DEFENDANT HERNANDEZ: Yes.

9 THE COURT: And Mr. Kull, what is the Government's
10 position on the issue of detention?

11 MR. KULL: We're moving to detain, Your Honor.

12 THE COURT: All right. Ah. The Government has filed
13 a motion to detain you. They are asking that you be kept in
14 custody pending any further proceedings in this case. So you
15 also have the right to a detention hearing for the Court to
16 hear evidence to decide if conditions can be set for your
17 release or whether you should have to stay in jail pending
18 those proceedings. I'm going to set that for tomorrow at 2:00
19 o'clock.

20 Mr. Kull, I see that you've asked for three days'
21 continuance. Can the Government be ready tomorrow?

22 MR. KULL: I'm not sure, Judge. I'll do our best. We
23 had executed a lot of search warrants on several houses, and we
24 still need to go through all that evidence, and there's a lot
25 of things that I'm still not clear of because I haven't seen

1 all the results from the search warrants yet. I can -- I'll do
2 my best to be ready tomorrow.

3 THE COURT: Tomorrow's Wednesday. Thursday's not
4 good. Well, let's see if we can be ready for tomorrow, and if
5 not then I'll entertain a new motion for continuance. Or if
6 you visit with Mr. Hernandez's attorney and the parties agree
7 to move it to Friday, then we'll do that.

8 MR. KULL: Just for the record, I've spoken with Mr.
9 Weatherspoon on the phone, and he was available anytime this
10 week. I'll call and confirm if Friday would be okay, and I'll
11 let the Court if he says -- agrees with that.

12 THE COURT: All right. All right. If you would
13 please let us know.

14 MR. KULL: Yes, ma'am.

15 THE COURT: All right. Mr. Hernandez, I'm going to
16 set you for hearings tomorrow. There's a possibility they
17 might get continued until Friday. What's important for you to
18 know is that you're going to have to stay in custody at least
19 until we can have those hearings.

20 DEFENDANT HERNANDEZ: Okay.

21 THE COURT: Okay? Do you have any questions about
22 what we've covered here so far?

23 DEFENDANT HERNANDEZ: No.

24 THE COURT: All right. Anything else from the
25 Government, Mr. Kull?

1 MR. KULL: No, Your Honor.

2 THE COURT: All right. Then you may have a seat and
3 I'll see you back either tomorrow or Friday.

4 All right. Mr. Gamez? Mr. Gamez, do you understand the
5 constitutional rights that I explained at the beginning of the
6 hearing?

7 DEFENDANT GAMEZ: Yes, ma'am.

8 THE COURT: Have you gotten a copy of the criminal
9 complaint?

10 DEFENDANT GAMEZ: Yes, ma'am.

11 THE COURT: Have you had a chance to read it?

12 DEFENDANT GAMEZ: Yes, ma'am.

13 THE COURT: Do you understand what you're being
14 accused of here?

15 DEFENDANT GAMEZ: Yes, ma'am.

16 THE COURT: Have you hired your own lawyer to
17 represent you?

18 DEFENDANT GAMEZ: No. No, ma'am.

19 THE COURT: And can you afford to hire an attorney?

20 DEFENDANT GAMEZ: No, ma'am.

21 THE COURT: Do you want the Court to appoint one for
22 you?

23 DEFENDANT GAMEZ: Yes, ma'am.

24 THE COURT: I have here a signed financial affidavit
25 that I'm holding up. Can you see the signature here at the

1 bottom of this document?

2 DEFENDANT GAMEZ: Yes.

3 THE COURT: Is this your signature?

4 DEFENDANT GAMEZ: Yes.

5 THE COURT: Did you personally fill out the affidavit?

6 DEFENDANT GAMEZ: Yes.

7 THE COURT: And do you understand that you answered
8 these questions and signed the affidavit under oath?

9 DEFENDANT GAMEZ: Yes.

10 THE COURT: Do you understand that that means if you
11 answered any questions falsely that you could later be
12 prosecuted for perjury or making a false statement?

13 DEFENDANT GAMEZ: Yes.

14 THE COURT: Based on my review of your affidavit, I do
15 find that you qualify for the appointment of counsel, and I'm
16 appointing Mr. Tomko to represent you. You've had a chance to
17 meet Mr. Tomko, --

18 DEFENDANT GAMEZ: Yes.

19 THE COURT: -- who's here today; is that right?

20 DEFENDANT GAMEZ: Yes.

21 THE COURT: Any questions about the appointment of
22 counsel?

23 DEFENDANT GAMEZ: No.

24 THE COURT: All right. Because you're here on a
25 criminal complaint instead of an indictment, you have the right

1 to what we call a preliminary or probable cause hearing.
2 That's a hearing where the Government will have to show that
3 there's probable cause to believe that you committed the crime
4 that's alleged in the complaint. They have to show that
5 there's enough proof of these charges in order to hold you at
6 this stage of the proceedings.

7 The Government has moved to detain you pending any further
8 proceedings. They're asking that you be kept in jail until any
9 further proceedings. So you also have the right to a detention
10 hearing for the Court to hear evidence to decide if you can be
11 released on a bond or whether you should have to stay in jail.

12 Do you understand your rights to these hearings?

13 DEFENDANT GAMEZ: Yes.

14 THE COURT: All right. I have here a signed waiver of
15 detention hearing and a waiver of preliminary hearing. I'm
16 holding each waiver up. Can you see the waivers?

17 DEFENDANT GAMEZ: Yes.

18 THE COURT: Can you see the signature at the bottom of
19 each waiver?

20 DEFENDANT GAMEZ: Yes.

21 THE COURT: Is that your signature?

22 DEFENDANT GAMEZ: Yes.

23 THE COURT: Did you read each waiver before you signed
24 it?

25 DEFENDANT GAMEZ: Yes.

1 THE COURT: Did you discuss each waiver with Mr.
2 Tomko?

3 DEFENDANT GAMEZ: No.

4 THE COURT: You did not?

5 DEFENDANT GAMEZ: Oh, yes. Oh, that was -- yes.

6 MR. TOMKO: Yeah, he discussed the waiver.

7 THE COURT: Okay. All right. Do you understand that
8 by giving up your rights to these hearings I have to
9 automatically find probable cause in this case and to order
10 that you stay in jail until any further proceedings?

11 DEFENDANT GAMEZ: Yes.

12 THE COURT: Do you still wish to give up your rights
13 to these hearings?

14 DEFENDANT GAMEZ: Yes.

15 THE COURT: Then I find that the waivers have been
16 given knowingly and voluntarily. The Court finds probable
17 cause in the case, and orders that the Defendant be detained
18 pending any further proceedings.

19 Mr. Gamez, do you have any questions about anything that
20 we've covered here today?

21 DEFENDANT GAMEZ: No.

22 THE COURT: All right. Mr. Tomko, anything else the
23 Court should address?

24 MR. TOMKO: Nothing, Your Honor.

25 THE COURT: Mr. Kull?

1 MR. KULL: No, Your Honor. Thank you.

2 THE COURT: Good luck to you, Mr. Gamez. You may have
3 a seat. Counsel are excused if they have no further matters
4 before the Court.

5 United States versus Miguel Quintero, also in 3:12-MJ-491-
6 BH. Mr. Quintero, do you understand the constitutional rights
7 that I explained at the beginning of this hearing?

8 DEFENDANT QUINTERO: Yes, ma'am.

9 THE COURT: All right. Did you get a copy of the
10 criminal complaint against you?

11 DEFENDANT QUINTERO: Yes, ma'am.

12 THE COURT: Have you had a chance to read it?

13 DEFENDANT QUINTERO: Yes, ma'am.

14 THE COURT: Do you understand what the Government is
15 accusing you of?

16 DEFENDANT QUINTERO: Yes, ma'am.

17 THE COURT: Have you hired your own lawyer to
18 represent you in this matter?

19 DEFENDANT QUINTERO: No, ma'am.

20 THE COURT: Can you afford to hire an attorney?

21 DEFENDANT QUINTERO: No, ma'am.

22 THE COURT: Do you want the Court to appoint one for
23 you?

24 DEFENDANT QUINTERO: Yes, ma'am.

25 THE COURT: I have here a signed financial affidavit

1 that I'm holding up. Can you see the signature from where
2 you're standing?

3 DEFENDANT QUINTERO: Yes, ma'am.

4 THE COURT: Is that your signature?

5 DEFENDANT QUINTERO: Yes, ma'am.

6 THE COURT: Did you personally fill out this
7 affidavit?

8 DEFENDANT QUINTERO: I just signed it. I don't think
9 I filled it out.

10 THE COURT: Okay. Do you understand that you answered
11 the questions and signed the affidavit under oath?

12 DEFENDANT QUINTERO: Yes.

13 THE COURT: Do you understand that that means if you
14 answered any questions falsely that you could later be
15 prosecuted for perjury or making a false statement?

16 DEFENDANT QUINTERO: Yes, ma'am.

17 THE COURT: Based on my review of the affidavit, I do
18 find that you qualify for the appointment of counsel and I'm
19 appointing Ms. Sharita Blacknall to represent you. Have you
20 had a chance to meet her and to visit with her a little bit
21 about your case?

22 DEFENDANT QUINTERO: Yes, ma'am.

23 THE COURT: Do you have any questions about the
24 appointment of counsel?

25 DEFENDANT QUINTERO: No, ma'am.

1 THE COURT: Because you're here on a criminal
2 complaint instead of an indictment, you have the right to a
3 preliminary or probable cause hearing. That's a hearing where
4 the Government will have to show that there's probable cause to
5 believe that you've committed the offense charged in the
6 complaint. The Government has to show that there's enough
7 proof of the charges to hold you at this stage of the
8 proceedings.

9 The Government has also filed a motion to detain you.
10 They're asking that you be kept in jail pending any further
11 matters in your case. So you have the right to a detention
12 hearing for the Court to decide if a bond can be set or whether
13 you should have to stay in jail.

14 Have you had a chance to visit with Ms. Blacknall about
15 these hearings?

16 DEFENDANT QUINTERO: Yes, ma'am.

17 THE COURT: And do you understand your rights to these
18 hearings?

19 DEFENDANT QUINTERO: Yes, ma'am.

20 THE COURT: I have here signed waivers of both
21 hearings that I'm holding up. Can you see the signature on
22 each waiver?

23 DEFENDANT QUINTERO: Yes, ma'am.

24 THE COURT: Is that your signature?

25 DEFENDANT QUINTERO: Yes, ma'am.

1 THE COURT: And did you read each waiver before you
2 signed it?

3 DEFENDANT QUINTERO: Yes, ma'am.

4 THE COURT: And have you discussed both of these
5 waivers with Ms. Blacknall?

6 DEFENDANT QUINTERO: Yes, ma'am.

7 THE COURT: Do you understand that by giving up your
8 rights to these hearings, I have to automatically find probable
9 cause in your case and to order that you stay in jail pending
10 any further proceedings?

11 DEFENDANT QUINTERO: Yes, ma'am.

12 THE COURT: Is that what you would like to do?

13 DEFENDANT QUINTERO: Yes, ma'am.

14 THE COURT: Then I find that the waivers have been
15 given knowingly and voluntarily. The Court finds probable
16 cause and orders Mr. Quintero detained pending any further
17 proceedings.

18 Do you have any questions about what we've covered here
19 today?

20 DEFENDANT QUINTERO: No, ma'am.

21 THE COURT: Ms. Blacknall, anything else?

22 MS. BLACKNALL: No, Your Honor.

23 THE COURT: Mr. Kull?

24 MR. KULL: No, Your Honor.

25 THE COURT: Good luck to you, sir. You may have a

1 seat.

2 Mr. Agne Vasquez.

3 While he's approaching the podium, Mr. Kull, is the
4 Government contending that any of the seven defendants are not
5 citizens of the United States other than Ms. Vasquez and Mr.
6 Picasso-Nieto?

7 MR. KULL: Judge, I can't say that for sure. We tried
8 to reach out to ICE last night and weren't able to get a
9 response. I've tasked Task Force Office Boston with that duty
10 to let me know.

11 THE COURT: All right.

12 MR. KULL: Hopefully by tomorrow.

13 THE COURT: Because I've not advised anyone of their
14 rights to consular notification to the extent that they're not
15 citizens, because of not having any information for a couple of
16 the individuals.

17 MR. KULL: Yes, Your Honor. I think it would be safe
18 to, Mr. Picasso and Maria, to advise them. I think those are
19 the only two that I know of for sure. There's some conflicting
20 information about individuals, a couple of the Vasquezes being
21 born in Mexico.

22 THE COURT: All right.

23 MR. KULL: But the ones you've done so far I believe
24 are United States citizens, Your Honor.

25 THE COURT: All right. Mr. Hernandez, Mr. Gamez and

1 Mr. --

2 MR. KULL: Quintero.

3 THE COURT: -- Quintero?

4 MR. KULL: Yes, Your Honor.

5 THE COURT: All right.

6 MR. KULL: I believe those to be United States
7 citizens.

8 THE COURT: All right. Mr. Vasquez?

9 DEFENDANT A. VASQUEZ: Yes.

10 THE COURT: Do you understand the constitutional
11 rights that I explained at the beginning of the hearing?

12 DEFENDANT A. VASQUEZ: Yes.

13 THE COURT: All right. Now, the Government is --
14 well, according to the Pretrial Services report, you might not
15 be a citizen of the United States.

16 DEFENDANT A. VASQUEZ: Yes.

17 THE COURT: If you are not a citizen of the United
18 States, then you have the right to have your country's consular
19 officers be notified that you've been arrested in the United
20 States. You have the right to communicate with those officers,
21 and they might be able to help you obtain legal representation
22 and to contact your family, among other things. If this right
23 applies to you, you may exercise it at any time. Do you
24 understand this right?

25 DEFENDANT A. VASQUEZ: Yes.

1 THE COURT: And do you understand that the only thing
2 that you have to do to exercise the right, if it applies to
3 you, is to let your attorney know or let the Government's
4 attorney know so that they can advise the Court?

5 DEFENDANT A. VASQUEZ: Yes.

6 THE COURT: All right. Do you wish to consult with an
7 attorney before deciding whether to exercise the right, if it
8 does in fact apply to you?

9 DEFENDANT A. VASQUEZ: Yes.

10 THE COURT: Have you gotten a copy of the indictment
11 -- of the criminal complaint?

12 DEFENDANT A. VASQUEZ: Yes.

13 THE COURT: Have you had a chance to read it?

14 DEFENDANT A. VASQUEZ: I'm almost done with it.

15 THE COURT: Do you understand that you're being
16 charged with a drug conspiracy?

17 DEFENDANT A. VASQUEZ: Yes.

18 THE COURT: Have you hired your own lawyer to
19 represent you?

20 DEFENDANT A. VASQUEZ: No.

21 THE COURT: Can you afford to hire an attorney?

22 DEFENDANT A. VASQUEZ: No.

23 THE COURT: Do you want the Court to appoint one for
24 you?

25 DEFENDANT A. VASQUEZ: Yes.

1 THE COURT: I have here a signed financial affidavit
2 that I'm holding up. Can you see the signature on the second
3 page?

4 DEFENDANT A. VASQUEZ: Yes.

5 THE COURT: Is this your signature?

6 DEFENDANT A. VASQUEZ: Yes.

7 THE COURT: Did you personally fill out the affidavit?

8 DEFENDANT A. VASQUEZ: Yes.

9 THE COURT: Do you understand that you answered the
10 questions and signed the affidavit under oath?

11 DEFENDANT A. VASQUEZ: Yes.

12 THE COURT: And do you understand that that means, if
13 you answered any questions falsely, that you could later be
14 prosecuted for perjury or making a false statement?

15 DEFENDANT A. VASQUEZ: Yes.

16 THE COURT: Based on my review of your affidavit, I do
17 find that you qualify for the appointment of counsel and am
18 appointing Mr. James Jamison to represent you. Have you had a
19 chance to talk to him about your case?

20 DEFENDANT A. VASQUEZ: Yes.

21 THE COURT: Any questions about the appointment of
22 counsel?

23 DEFENDANT A. VASQUEZ: No, ma'am.

24 THE COURT: The Government has filed a motion to
25 detain you. They're asking that you be kept in jail pending

1 any further proceedings. So you have the right to a detention
2 hearing for the Court to hear evidence to decide whether
3 conditions can be set for your release or whether you should
4 have to stay in jail. Because you've been charged in a
5 criminal complaint instead of an indictment, you also have the
6 right to what we call a preliminary or probable cause hearing.
7 That's a hearing where the Government will have to show that
8 there's probable cause to believe that you've committed the
9 crime with which you're being charged. They have to show that
10 there's enough proof of the charges to hold you at this stage
11 of the proceedings.

12 Do you understand your rights to these hearings?

13 DEFENDANT A. VASQUEZ: Yes.

14 THE COURT: And Mr. Jamison, how would Mr. Vasquez
15 like to proceed?

16 MR. JAMISON: Judge, in terms of judicial economy, we
17 can be available tomorrow, Wednesday, at 2:00 p.m. I do need
18 to consult more with my client and also with family members.
19 And I understand that there may be some repercussions should my
20 client exercise that right in terms of a guilty plea. So, we
21 would just respectfully request one day also.

22 THE COURT: Okay. What do you mean by some
23 repercussions if he exercises his rights to these hearings?

24 MR. JAMISON: Well, it's my understanding the
25 Government may not offer a 5K1 if a person goes through the

1 preliminary hearing, probable cause hearing.

2 THE COURT: I recall you raising that issue in
3 connection with a defendant from the Lubbock Division.

4 MR. JAMISON: From Lubbock District.

5 THE COURT: It's never been my understanding that that
6 is a practice here in this division.

7 MR. JAMISON: And I've never known it to be a practice
8 in this division either, Your Honor.

9 THE COURT: Okay.

10 MR. JAMISON: But it may or may not, you know, apply
11 here. So, --

12 THE COURT: Okay. So, do you want until tomorrow?

13 MR. JAMISON: Yes, Judge, until tomorrow.

14 THE COURT: Okay. And because it would be better to
15 have all of these hearings together, Mr. Kull, it's looking
16 more and more like tomorrow -- do you want me to set this for
17 Wednesday? For Friday?

18 MR. KULL: Yes, please, Your Honor.

19 THE COURT: Okay. And Mr. Jamison, is Friday going to
20 work?

21 MR. JAMISON: Well, it would work, Your Honor.
22 Wednesday would be just as well. Because even if my client
23 should choose to waive his hearing, I would at least, you know,
24 be present because I would want to hear, you know, any
25 information that's brought forth in any other related hearings.

1 THE COURT: Okay.

2 MR. JAMISON: So I really can't tell you what my
3 client, you know, --

4 THE COURT: Right.

5 MR. JAMISON: -- may or may not want to do.

6 THE COURT: But what day works better, whether or not
7 he goes forward: Wednesday or Friday?

8 MR. JAMISON: Wednesday, tomorrow, would be much
9 better, Your Honor.

10 THE COURT: Okay. Mr. Kull, I hate to put you on the
11 spot. I know you've got a lot of evidence to go through. But
12 we've already got five hearings set for Thursday, so it's
13 either Wednesday or Friday.

14 MR. KULL: Yeah, I'd prefer Friday, Your Honor. It
15 just gives me that time to go through the evidence. I don't
16 want to rush through and miss something. So, I mean, I'm
17 exercising my right to the three days that I'm entitled to and
18 I'd request the Court just give me those three -- I will work
19 with the Court on scheduling, but I'm --

20 THE COURT: And I understand your right to ask for
21 three days. I just hate to push these off further than they
22 really need to be pushed off. And I understand that you do
23 have a lot to go through.

24 Mr. Jamison, can you be here on Friday --

25 MR. JAMISON: Judge, if --

1 THE COURT: -- just to save the Marshals bringing
2 people tomorrow --

3 MR. JAMISON: Yes.

4 THE COURT: -- and then another motion for
5 continuance?

6 MR. JAMISON: If you want me here on Friday, I'll be
7 here on Friday, Your Honor.

8 THE COURT: Okay. All right. Now, Mr. Vasquez, do
9 you understand that you're going to have to stay in jail at
10 least until we can have these hearings?

11 DEFENDANT A. VASQUEZ: Yes.

12 THE COURT: All right. Then I'm going to set this for
13 preliminary and probable cause hearings Friday at 2:00 o'clock.
14 And I'll set Mr. Hernandez's at that time, too. Mr. Hernandez,
15 your hearing is going to be Friday at 2:00 o'clock.

16 Do you have any questions about what we've covered here so
17 far, Mr. Vasquez?

18 DEFENDANT A. VASQUEZ: No, ma'am.

19 THE COURT: All right. Mr. Jamison, anything else?

20 MR. JAMISON: No, Your Honor.

21 THE COURT: And Mr. Kull?

22 MR. KULL: No, Your Honor.

23 THE COURT: All right. Mr. Vasquez, you may have a
24 seat. I'll see you back Friday at 2:00 o'clock.

25 All right. Mr. Roberto Vasquez, also in 3:12-MJ-491.

1 MR. HART: I'm sorry, Your Honor. Who'd you call?

2 I'm sorry.

3 THE COURT: Roberto Vasquez. Mr. Vasquez, do you
4 understand the constitutional rights that I explained at the
5 beginning of the hearing?

6 DEFENDANT R. VASQUEZ: Yes, ma'am.

7 THE COURT: All right. I believe there is some
8 question as to whether or not you are a citizen of the United
9 States, so I'm going to give you this notice of your rights to
10 the extent that you're not. You don't have to tell me today
11 whether you are or you're not. I'm just going to be safe and
12 tell you about your rights just in case you're not. Okay?

13 If you're not a citizen of the United States, then you have
14 the right to have your country's consular officers be notified
15 that you've been arrested. You're entitled to communicate with
16 those officers, and they might be able to help you obtain legal
17 representation and to contact your family, among other things.
18 If this right applies to you, you may exercise it at any time
19 simply by letting the Court know through your attorney or
20 through the Government's attorney. Do you understand your
21 right to consular notification if you are not a citizen of the
22 United States?

23 DEFENDANT R. VASQUEZ: Yes, ma'am.

24 THE COURT: All right. And would you like to talk to
25 an attorney before deciding whether to exercise this right, if

1 it does in fact apply to you?

2 DEFENDANT R. VASQUEZ: Yes, ma'am.

3 THE COURT: All right. Did you get a copy of the
4 criminal complaint against you?

5 DEFENDANT R. VASQUEZ: Yes, ma'am.

6 THE COURT: Did you get a chance to read it?

7 DEFENDANT R. VASQUEZ: Yes, ma'am.

8 THE COURT: And do you understand that you're being
9 charged with a drug conspiracy?

10 DEFENDANT R. VASQUEZ: Yes, ma'am.

11 THE COURT: Have you hired your own lawyer to
12 represent you?

13 DEFENDANT R. VASQUEZ: No, ma'am.

14 THE COURT: Can you afford to hire an attorney?

15 DEFENDANT R. VASQUEZ: No.

16 THE COURT: I need you to answer out loud. I'm sorry.

17 DEFENDANT R. VASQUEZ: No, ma'am.

18 THE COURT: Okay. If you move a little closer to the
19 microphone, it'll make it a little easier for me to hear you.
20 We're on the record, so it's important that your answers be
21 recorded.

22 DEFENDANT R. VASQUEZ: All right.

23 THE COURT: All right. Would you like for the Court
24 to appoint an attorney for you?

25 DEFENDANT R. VASQUEZ: No, ma'am. Yes, ma'am.

1 THE COURT: I have here a signed financial affidavit
2 that I'm holding up. Can you see the signature here at the
3 bottom from where you're standing?

4 DEFENDANT R. VASQUEZ: Yes, ma'am.

5 THE COURT: Is this your signature?

6 DEFENDANT R. VASQUEZ: Uh, yes, ma'am.

7 THE COURT: Let me hand it down. I'd like for you to
8 look at it and tell me if you signed this paper.

9 (Pause.)

10 DEFENDANT R. VASQUEZ: Yes, ma'am.

11 THE COURT: Did you personally fill out that
12 affidavit?

13 DEFENDANT R. VASQUEZ: Yes, ma'am.

14 THE COURT: Do you understand that you answered the
15 questions and signed the affidavit under oath?

16 DEFENDANT R. VASQUEZ: Yes.

17 THE COURT: And do you understand that that means, if
18 you answered any questions falsely, that you could later be
19 prosecuted for perjury or making a false statement?

20 DEFENDANT R. VASQUEZ: Yes, ma'am.

21 THE COURT: Based on my review of your affidavit, I do
22 find that you qualify for the appointment of counsel and am
23 appointing Mr. Terry Hart to represent you. Did you get a
24 chance to meet Mr. Hart?

25 DEFENDANT R. VASQUEZ: Yes, ma'am.

1 THE COURT: All right. Because you're here on a
2 criminal complaint, you have the right to what we call a
3 probable cause or a preliminary hearing. That's a hearing
4 where the Government will have to show that there's probable
5 cause to believe that you've committed the crime that's alleged
6 in the complaint. They have to show that there's enough proof
7 of the charges to hold you at this stage of the proceedings.

8 The Government has also moved to detain you. They're
9 asking that you be kept in jail pending any further
10 proceedings, so you have the right to a hearing for the Court
11 to decide if a bond can be set for you or whether you should
12 have to stay in jail.

13 Have you had a chance to visit with Mr. Hart about your
14 rights to these hearings?

15 DEFENDANT R. VASQUEZ: Yes, ma'am.

16 THE COURT: And do you understand your rights to these
17 hearings?

18 DEFENDANT R. VASQUEZ: Yes, ma'am.

19 THE COURT: Mr. Hart, how would Mr. Vasquez like to
20 proceed?

21 MR. HART: Your Honor, I think we're just going to
22 have to ask for an extra few days. I discussed the preliminary
23 hearing and the detention hearing with him, but, as Mr.
24 Jamison, I have a concern -- I did not learn until I came to
25 the hearing that we may be waiving our 5K1.1 right if we

1 exercise our rights to those hearings, and I have not had a
2 chance to discuss that with him.

3 THE COURT: Okay. And I don't know that that's the
4 case. That issue came up in connection with a defendant
5 brought in from another division.

6 MR. KULL: Judge?

7 THE COURT: Let's have Mr. Kull address that.

8 MR. KULL: That is -- that's what I've told the
9 defense attorneys in this case, that cooperation starts today,
10 and if they -- they're free -- more than happy to exercise
11 their rights to those hearings, but in the event they do so the
12 Government will consider that not to be cooperating and we will
13 not talk to them further about cooperation against other
14 defendants or other cases that are pending with other
15 individuals.

16 THE COURT: Is this a policy just for this case or is
17 this a new policy of the U.S. Attorney's Office for the Dallas
18 Division?

19 MR. KULL: This is the policy I've had with my cases
20 for probably the last year and a half, two years, --

21 THE COURT: Okay.

22 MR. KULL: -- on drug cases. Particularly the ones
23 that are involved with this, with the wires and all the
24 information I have against these defendants.

25 THE COURT: All right. Well, I guess, Mr. Hart, then

1 you'll have to discuss that with your client. I was not aware
2 that this is a policy that is being utilized in this division.

3 MR. HART: And I was not, either, Your Honor, until I
4 came to the hearing. And so, yes, I need some time to discuss
5 that with my client.

6 THE COURT: All right. So, should I set this for
7 hearing on Friday and you can tell me then whether or not your
8 client is going to waive?

9 MR. HART: That would be fine, Your Honor.

10 THE COURT: All right. Then, Mr. Vasquez, I'm going
11 to set your hearings for Friday at 2:00 o'clock, and you'll
12 have to stay in custody at least until those hearings.

13 DEFENDANT R. VASQUEZ: Yes, ma'am.

14 THE COURT: Do you understand?

15 DEFENDANT R. VASQUEZ: Yes, ma'am.

16 THE COURT: Any questions?

17 DEFENDANT R. VASQUEZ: No, ma'am.

18 THE COURT: All right. Mr. Hart, anything else the
19 Court should address?

20 MR. HART: No, Your Honor. May I be excused?

21 THE COURT: Mr. Kull, anything from the Government?

22 MR. KULL: No, Your Honor.

23 THE COURT: All right. You may have a seat, sir, and
24 counsel are excused if they have no further matters before the
25 Court.

1 MR. HART: Thank you, Your Honor.

2 THE COURT: Ms. Adriano, where are we?

3 THE INTERPRETER: I'm on Page 15.

4 THE COURT: Okay. I'm going to take a short recess to
5 allow you to complete your translation, and then we'll go back
6 on the record. We'll be in recess.

7 THE CLERK: All rise.

8 (A recess ensued from 2:49 p.m. until 3:11 p.m.)

9 THE COURT: Please be seated. All right. United
10 States versus Sergio Picasso-Nieto. Mr. Nieto, if you will
11 please approach the podium. And Ms. Maria Reyna Vasquez, if
12 you would please stand. I'm going to advise you of your
13 constitutional rights. You have the right to remain silent.
14 You're not required to make any statement about any charges
15 against you. If you have made a statement, you're not required
16 to say any more. If you start to make a statement, you may
17 stop at any time. Any statement made by you can later be used
18 against you.

19 You have the right to the assistance of an attorney at all
20 stages of these proceedings. If you cannot afford an attorney,
21 one will be appointed for you.

22 If you are not a citizen of the United States, then you
23 have the right to have your country's consular officers here in
24 the United States be notified of your arrest. You're entitled
25 to communicate with your consular officers, and they might be

1 able to help you obtain legal representation and to contact
2 your family, among other things. If this right applies to you,
3 you may exercise it at any time simply by letting the Court
4 know through your attorney or through the Government's
5 attorney.

6 Ms. Vasquez, you may have a seat. I'll come back to your
7 case.

8 Sir, do you understand the constitutional rights that I
9 have just explained?

10 DEFENDANT PICASSO: (through interpreter) Yeah.

11 THE COURT: Is that a yes?

12 DEFENDANT PICASSO: Yes.

13 THE COURT: And do you understand the right to
14 consular notification?

15 DEFENDANT PICASSO: Yes, I understand it.

16 THE COURT: Would you like to talk to an attorney
17 before deciding whether to invoke this right, if it does in
18 fact apply to you?

19 DEFENDANT PICASSO: Yes.

20 THE COURT: And Ms. Adriano, I didn't realize that I
21 had not sworn you in. Let's do that at this time.

22 (The interpreter is sworn.)

23 THE COURT: And for the record, you've interpreted the
24 criminal complaint for both Mr. Picasso-Nieto and Ms. Maria
25 Reyna Vasquez?

1 THE INTERPRETER: Yes, Your Honor.

2 THE COURT: And is that correct, Mr. Picasso?

3 DEFENDANT PICASSO: (through interpreter) What
4 complaint?

5 THE COURT: Okay. Did Ms. Adriano interpret the
6 charges against you for you?

7 DEFENDANT PICASSO: Oh, yes.

8 THE COURT: And for the record, you do need the
9 services of an Spanish interpreter; is that right?

10 DEFENDANT PICASSO: Uh-huh. Yeah.

11 THE COURT: Okay. Is that a yes?

12 DEFENDANT PICASSO: Yes.

13 THE COURT: Thank you. All right. Do you have any
14 questions about the constitutional rights that I have explained
15 or the right to consular notifications?

16 DEFENDANT PICASSO: No.

17 THE COURT: And let's get it clear on the record. Do
18 you wish to talk to an attorney before deciding whether to
19 invoke the right to consular notification if it does in fact
20 apply to you?

21 DEFENDANT PICASSO: Yes.

22 THE COURT: Now, you've told me that Ms. Adriano has
23 translated the criminal complaint for you. Do you understand
24 what the Government is accusing you of in this document?

25 DEFENDANT PICASSO: (in English) Yes. Okay.

1 THE COURT: Have you hired an attorney to represent
2 you in this case?

3 DEFENDANT PICASSO: (through interpreter) No.

4 THE COURT: Can you afford to hire an attorney?

5 DEFENDANT PICASSO: No.

6 THE COURT: Do you want the Court to appoint one for
7 you?

8 DEFENDANT PICASSO: Yes.

9 THE COURT: All right. Now, I have here a financial
10 affidavit that I'm holding up. Can you see this document?

11 DEFENDANT PICASSO: Yes, but I don't know how to read.

12 THE COURT: Okay. And I just wanted to ask if you
13 could see the document.

14 DEFENDANT PICASSO: Yes.

15 THE COURT: Somebody filled out this document for you.
16 Who filled it out?

17 DEFENDANT PICASSO: I don't know who it was that
18 filled it out.

19 THE COURT: Okay. And it's my understanding that you
20 do not read English; is that correct?

21 DEFENDANT PICASSO: Yes.

22 THE COURT: And do you read in Spanish?

23 DEFENDANT PICASSO: I don't read Spanish, either.

24 THE COURT: Okay. There is an X on the bottom of this
25 paper where there's a line. I'm going to hand down this paper

1 and ask if you made that X on that paper.

2 DEFENDANT PICASSO: Yes.

3 THE COURT: Was that X intended to be your signature
4 on this paper?

5 DEFENDANT PICASSO: Uh-huh.

6 THE COURT: Is that a yes?

7 DEFENDANT PICASSO: Yes.

8 THE COURT: All right. Did someone ask you questions
9 about whether you were employed in order to fill out this
10 paper?

11 DEFENDANT PICASSO: Yes.

12 THE COURT: And did they ask you questions about
13 whether you had any assets or property?

14 DEFENDANT PICASSO: Yes.

15 THE COURT: Do you understand that by placing your
16 signature on this paper you are essentially saying that these
17 answers are true and correct under oath, and that that means if
18 you answered any questions falsely that you could later be
19 prosecuted for perjury or making a false statement?

20 DEFENDANT PICASSO: Yes.

21 THE COURT: All right. Do you want to go over any of
22 these questions with Mr. Herrington?

23 DEFENDANT PICASSO: Yes. Yes.

24 THE COURT: I'm going to hand this down for Mr.
25 Harrington to go over with Mr. Picasso, just to be sure that

1 the answers are correct.

2 MR. HERRINGTON: Excuse me.

3 (Counsel confers with Defendant.)

4 MR. HERRINGTON: Your Honor, he has no questions
5 regarding this document. He misunderstood the question.

6 THE COURT: All right. Based on my review of the
7 affidavit, I do find that Mr. Picasso qualifies for the
8 appointment of counsel, and I'm appointing Mr. Rob Herrington
9 to represent him. Sir, have you had a chance to meet Mr.
10 Herrington, who's here today?

11 DEFENDANT PICASSO: Yes.

12 THE COURT: Do you have any questions about the
13 appointment of counsel?

14 DEFENDANT PICASSO: No.

15 THE COURT: Because you're here today on a criminal
16 complaint instead of an indictment, you have the right to what
17 we call a probable cause hearing. That's a hearing where the
18 Government will have to show that there's probable cause to
19 believe that you've committed the crime that's charged in the
20 complaint. The Government has to show the Court that it has
21 enough proof of these charges to hold you at this stage of the
22 proceedings.

23 The Government has also filed a motion to detain you.
24 They're asking that you be kept in jail pending any further
25 proceedings in this case. So you have the right to a detention

1 hearing for the Court to hear evidence to decide if a bond can
2 be set or whether you should have to stay in jail.

3 Do you understand your rights to these hearings?

4 DEFENDANT PICASSO: Yes.

5 THE COURT: All right. And have you had a chance to
6 discuss your right to these hearings with Mr. Herrington?

7 DEFENDANT PICASSO: Yes.

8 THE COURT: All right. Mr. Herrington, how would Mr.
9 Picasso-Nieto like to proceed?

10 MR. HERRINGTON: Your Honor, there's a possibility
11 that we're going to waive both hearings, but we haven't been
12 able to discuss it sufficiently to make a determination. So
13 I'm requesting that the Court -- and I understand that the
14 Court wants to move these cases along as expeditiously as
15 possible -- but we would actually request next Tuesday. If you
16 absolutely cannot give us a hearing next Tuesday, by which time
17 I may have gotten waivers in place, then we'd request Friday.
18 But my personal preference is that we have a postponement until
19 Tuesday, Monday being a holiday.

20 THE COURT: All right. So that's actually four days,
21 a four-day continuance? All right.

22 MR. HERRINGTON: I think so, yes.

23 THE COURT: Sir, do you understand that you're going
24 to have to stay in jail until we can have these hearings?

25 DEFENDANT PICASSO: Yes.

1 THE COURT: All right. And you understand that your
2 attorney has asked to postpone it until Tuesday?

3 DEFENDANT PICASSO: Yes.

4 THE COURT: All right. Is that what you would like to
5 do?

6 DEFENDANT PICASSO: Yes.

7 THE COURT: All right.

8 MR. JAMISON: And Your Honor, if the Court is of the
9 inclination to postpone this to Tuesday, I could have mine set
10 at that same time, too. But I'll be here whenever the Court
11 wants me to be here.

12 THE COURT: All right. So you'd like to have yours on
13 Tuesday --

14 MR. JAMISON: Yeah.

15 THE COURT: -- as well?

16 MR. JAMISON: Yeah, that would be preferable to me.
17 But if you want us here on Friday, I will be here on Friday,
18 and I understand Mr. Herrington will also adjust his schedule
19 and be here on Friday if necessary.

20 THE COURT: Okay. All right. Well, your motions for
21 continuance are granted. I'll set you for Tuesday. And I'm
22 sorry, Mr. Jamison. You represent Mr. -- is it Quintero?

23 MR. JAMISON: Agne Vasquez.

24 THE COURT: Agne Vasquez. All right. All right.

25 Well, I'll set both of those, then, for Tuesday. I'm going to

1 leave Mr. Hernandez's for Friday.

2 A VOICE: At 2:00 o'clock?

3 MR. KULL: 2:00 o'clock.

4 MR. HERRINGTON: And again, Judge, it is certainly
5 possible, but I don't know right now, these hearings may be
6 waived. But it's just going to have to take some legwork.

7 THE COURT: I understand. I understand. All right.
8 Sir, do you have any questions about anything that we have
9 covered here today?

10 DEFENDANT PICASSO: No.

11 THE COURT: All right. Then, Mr. Herrington, anything
12 else the Court should address?

13 MR. HERRINGTON: Thank you, Your Honor, no.

14 THE COURT: Mr. Kull?

15 MR. KULL: No, Your Honor. Thank you.

16 THE COURT: All right. You may have a seat, sir.
17 Counsel are excused if they have no further matters before the
18 Court.

19 All right. Ms. Vasquez? Ms. Vasquez, it's my
20 understanding that you need the services of a Spanish
21 interpreter. Is that right?

22 DEFENDANT M. VASQUEZ: (through interpreter) Yes.

23 THE COURT: All right. Ms. Adriano is here, she's
24 been sworn, and she'll be assisting you today.

25 Do you understand the constitutional rights that I

1 explained at the beginning of the hearing?

2 DEFENDANT M. VASQUEZ: Yes.

3 THE COURT: Do you understand the right to consular
4 notification?

5 DEFENDANT M. VASQUEZ: Yes.

6 THE COURT: Do you wish to consult with an attorney
7 before deciding whether to invoke this right if it does in fact
8 apply to you?

9 DEFENDANT M. VASQUEZ: Yes.

10 THE COURT: Has a copy of the criminal complaint been
11 translated for you?

12 DEFENDANT M. VASQUEZ: Yes.

13 THE COURT: Do you understand what you're being
14 accused of here?

15 DEFENDANT M. VASQUEZ: Yes.

16 THE COURT: Have you hired your own lawyer to
17 represent you?

18 DEFENDANT M. VASQUEZ: Not up to this moment, no.

19 THE COURT: Can you afford to hire an attorney?

20 DEFENDANT M. VASQUEZ: No, not up to now, no.

21 THE COURT: Would you like for the Court to appoint
22 one for you?

23 DEFENDANT M. VASQUEZ: Yes.

24 THE COURT: I have here a signed financial affidavit
25 that is in both English and Spanish. Can you see the signature

1 on the second page that I'm holding up?

2 DEFENDANT M. VASQUEZ: No, I cannot see that far.

3 THE COURT: I'm going to hand this document down and
4 ask you to tell me if that's your signature on the second page.

5 DEFENDANT M. VASQUEZ: Yes.

6 THE COURT: All right. Did you personally fill out
7 this affidavit?

8 DEFENDANT M. VASQUEZ: Yes.

9 THE COURT: Do you understand that you answered the
10 questions and signed the affidavit under oath?

11 DEFENDANT M. VASQUEZ: Yes.

12 THE COURT: And do you understand that that means that
13 if you answered any questions falsely that you could later be
14 prosecuted for perjury or making a false statement?

15 DEFENDANT M. VASQUEZ: Yes.

16 THE COURT: Based on my review of your affidavit, I do
17 find that you qualify for the appointment of counsel, and I'm
18 appointing the Federal Public Defender's Office to represent
19 you. Have you had a chance to meet Ms. Harper, who's here
20 today from that office?

21 DEFENDANT M. VASQUEZ: Yes.

22 THE COURT: All right. Do you have any questions
23 about the appointment of counsel?

24 DEFENDANT M. VASQUEZ: No, it's all right.

25 THE COURT: Because you're here on a criminal

1 complaint instead of an indictment, you have the right to what
2 we call a preliminary hearing or a probable cause hearing.
3 That's a hearing where the Government will have to show that
4 there's probable cause to believe that you committed the crime
5 with which you're being charged. The Government has to show
6 that there's enough proof of these proceedings to hold you at
7 this stage of the process. Do you understand your right to a
8 preliminary hearing?

9 DEFENDANT M. VASQUEZ: Yes.

10 THE COURT: The Government has filed a motion to
11 detain you. They are asking that you be kept in custody
12 pending any further proceedings in this case. So you also have
13 the right to a detention hearing for the Court to hear evidence
14 to decide if a bond can be set or whether you should have to
15 stay in jail. Have you had a chance to visit with Ms. Harper
16 about your right to this hearing?

17 DEFENDANT M. VASQUEZ: Yes.

18 THE COURT: And Ms. Harper, how would Ms. Vasquez like
19 to proceed?

20 MS. HARPER: Your Honor, we're kind of in the same
21 situation as the other defendants. We're going to need a
22 little more time to discuss whether or not it's in her best
23 interest to exercise the right to have that hearing. So, we'd
24 ask for a continuance to Friday at the latest, Your Honor.

25 THE COURT: Okay. Ms. Vasquez, do you understand that

1 you're going to stay in jail at least until we can have these
2 hearings?

3 DEFENDANT M. VASQUEZ: Yes.

4 THE COURT: Okay. I'm going to set your hearings for
5 Friday at 2:00 o'clock. Do you have any questions about what
6 we have covered here so far?

7 DEFENDANT M. VASQUEZ: No, everything's all right.

8 THE COURT: Okay. Then you may have a seat and we're
9 adjourned as to this matter. Counsel are excused if they have
10 no further matters before the Court.

11 Mr. Kull, I do have some questions about your policy. I
12 want to understand it. Explain the policy to me, because I've
13 got a couple of questions for you.

14 MR. KULL: Sure. Yes, Your Honor. My policy is that
15 in these type of cases, these large conspiracy cases where
16 there's all sorts of confidential sources and undercover agents
17 and that sort of thing, if the defendant would like to
18 cooperate, the cooperation starts today. By today, I mean that
19 they waive their detention hearings and their probable cause
20 hearings. And in doing that, then the Government would -- we
21 will seek to speak with them regarding anything they may know
22 that may be beneficial to the Government for a potential 5K.

23 THE COURT: All right. And just to clarify, if a
24 defendant chooses to exercise his or her right to have a
25 detention hearing and a probable cause hearing, does that mean

1 that the Government will not file a 51K if they later decide
2 to seek to cooperate?

3 MR. KULL: Well, we won't seek their cooperation nor
4 will we talk with them with regard to a 5K if they decide not
5 to cooperate from day one.

6 THE COURT: All right. It has been my practice to
7 make a finding after taking waivers of probable cause and
8 detention hearings that the waivers are given knowingly and
9 voluntarily. Knowing that this is -- now knowing, because
10 this is the first time that I've ever heard that this policy
11 is used in the Dallas Division, how can I make a finding that
12 such a waiver is knowing or voluntary since the defendant is
13 having to choose between, at this early stage of the
14 proceedings, between exercising his or her right to these
15 hearings and cooperation later on?

16 MR. KULL: Well, I just think it's a waiver, it's a
17 right that can be waived depending on what the defendant wants
18 to do. I mean, it's just like anything else that's knowingly
19 and intentionally waived. They need to make a decision of
20 what's in their best interest and how they want to proceed. I
21 am more than happy to have detention hearings or probable
22 cause hearings all day long with these defendants. I've just
23 found that, in these type of cases, it -- the better policy,
24 at least from the Government's perspective, or my perspective,
25 is that if the defendant wants to cooperate, they're on board

1 from the very beginning.

2 THE COURT: All right.

3 MR. KULL: And I think it's a right that, if you can
4 waive a right to a jury, which is in the Bill of Rights, then
5 certainly you can waive a right, I believe, the statutory
6 rights to a detention hearing or probable cause hearing. They
7 have the -- they have all the -- well, not all of it,
8 obviously, but a lot of the evidence against them in the
9 probable cause, so they know what we have against them, and
10 they've had the opportunity to talk with defense counsel and
11 see whether it's in their interest to proceed and potentially
12 waive that right.

13 THE COURT: All right. I understand the right to
14 waive a jury trial and how it typically works with that. I
15 guess my concern is that many times the defense attorney has
16 been appointed just that morning and just had an opportunity
17 briefly to visit with the defendant before the hearing. And
18 I'm concerned that that does not afford adequate opportunity
19 for counsel to exercise their duties of representation to
20 their client.

21 I also have a concern about how this policy might or might
22 not conflict with the Bail Reform Act. In the purposes it
23 says everyone should be afforded bail unless the Court finds a
24 danger to the community or a flight risk. So this is the
25 first -- I'm just -- I'm asking questions, I'm seeking to

1 understand the policy, because, again, until today I'd never
2 heard that the policy was used here in the Dallas Division.
3 So, --

4 MR. KULL: Yes, ma'am.

5 THE COURT: -- I'm asking questions. And to the
6 extent that there are waivers on Friday from some of the
7 defendants who've asked for continuances to consider their
8 options, we may have to address that on the record.

9 MR. KULL: Okay. Well, I've never -- yeah, I've
10 pressed the defendant on the particular day of the assignment.
11 I've asked for three days' continuance. That gives them
12 enough time, I believe, to consult with counsel about, as
13 several defense attorneys have mentioned, as Ms. Harper has,
14 what's in the best interest of their clients, what they want
15 to do. So, --

16 THE COURT: All right. All right. Well, thank you
17 very much. We are adjourned.

18 (Proceedings concluded at 3:32 p.m.)

19 --oOo--

20

21 CERTIFICATE

22 I certify that the foregoing is a correct transcript from
23 the digital sound recording of the proceedings in the above-
entitled matter.

24

25

Kathy Rehling, CET**D-444
Certified Electronic Court Transcriber

Date

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